

Staff Summary Report



To: Mayor & City Council
Through: City Manager

Agenda Item Number **41**
Meeting Date 3/22/01

SUBJECT: Request approval of a contract with The Dini Partners in the amount of \$96,000 to provide consulting services related to the Rio Salado Capital Campaign.

PREPARED BY: Janice M. Schaefer, Economic Development Director

REVIEWED BY: Patrick Flynn, Chief Financial Officer

BRIEF: Request approval of a contract with The Dini Partners in the amount of \$96,000 to provide consulting services related to the Rio Salado Capital Campaign.

COMMENTS: **RIO SALADO (0112-07-03)** Request approval of a contract with The Dini Partners in the amount of \$96,000 to provide consulting services related to the Rio Salado Capital Campaign.

Document Name: (20010322edevjs01) Supporting Documents: Yes

SUMMARY: On August 30, 1999, the City issued a Request for Proposals (RFP) for a Fundraising Campaign Consultant to evaluate the feasibility of pursuing a capital campaign for the Rio Salado Project. On December 10, 1999, the Council approved a contract with The Dini Partners for the first phase of the RFP. The first phase included a feasibility study and a recommendation for a program to conduct the capital campaign.

At the Issue Review Session of February 15, 2001, the Council agreed to proceed with Phase two of the RFP, which is to implement the campaign based on the feasibility study and the program recommended by The Dini Partners. Therefore, staff is requesting approval of the attached Consulting Services Agreement between the City of Tempe and The Dini Partners. For the contract amount (\$96,000), The Dini Partners will provide services as follows:

- . Provide staff support to the Foundation/Campaign Organizing Committee.
- . Assist in the recruitment of the Foundation Executive Director.
- . Assist in the recruitment of the Foundation board members.
- . Develop and recommend campaign policies including: gift acceptance, naming opportunities, donor recognition and acknowledgment procedures, etc.
- . Assist in the recruitment of the Campaign Steering Committee.
- . Assist in the development of lead and major gift prospect lists.

- . Assist in the development of cultivation and solicitation strategies and implementation.
- . Assist in the development of the campaign case statement.
- . Assist in planning and conducting of Foundation Board and Campaign Steering Committee meetings.
- . Participate in prospect solicitation meetings as appropriate.
- . Be available for consultation on all campaign questions and issues as they arise.

FISCAL NOTE: The contract amount of \$96,000 will be funded from Contingency Funds.

RECOMMENDATION: Staff recommends approval of the attached contract with The Dini Partners to provide consulting services related to the Rio Salado Capital Campaign.



COUNSELORS IN PHILANTHROPY AND NONPROFIT MANAGEMENT

CONSULTING SERVICES AGREEMENT

BETWEEN

THE DINI PARTNERS, INC.

AND

CITY OF TEMPE

Tempe, Arizona

March 2001

This Agreement is entered into this 22nd day of March 2001, by and between THE DINI PARTNERS, INC., a Texas corporation ("DINI"), and CITY OF TEMPE ("CITY") and evidences the engagement of DINI to provide the CITY with professional consulting services.

The CITY is a municipal organization, which desires to obtain professional advice and assistance in planning and implementing fund-raising activities. DINI is a management and fund-raising consulting firm with expertise in fund raising and has the personnel capable of providing the type of services desired by the CITY.

The CITY desires to engage DINI, and DINI agrees to perform the professional services more particularly described herein (the "Services").

In consideration of the premises and other mutual promises and benefits set forth below, the CITY and DINI agree as follows:

1. **Services.** DINI will provide services as follows:
 - Provide staff support to the Foundation/Campaign Organizing Committee.
 - Assist in the recruitment of the Foundation Executive Director.
 - Assist in the recruitment of the Foundation board members.
 - Develop and recommend campaign policies including:
 - Gift acceptance
 - Naming opportunities
 - Donor recognition and acknowledgment procedures

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- Assist in the recruitment of the Campaign Steering Committee.
- Assist in the development of lead and major gift prospect lists.
- Assist in the development of cultivation and solicitation strategies and implementation.
- Assist in retaining a master plan consulting firm.
- Assist in the development of the campaign case statement.
- Assist in planning and conducting Foundation Board and Campaign Steering Committee meetings.
- Participate in prospect solicitation meetings as appropriate.
- Be available for consultation on all campaign questions and issues as they arise.

MR. DAVID B. JONES, principal and partner of DINI, MR. LARRY A. VACLAVIK, principal and lead partner of DINI, and DR. DAVID K. NORTHINGTON, senior consultant of DINI, will serve as the primary consulting team for this project.

2. **Compensation and Reimbursement**

A. **Fees.** As compensation for services performed under this Agreement, DINI shall receive a flat fee in the amount of ninety-six thousand dollars (\$96,000). Such compensation shall cover all Services to be provided for herein, including clerical services and shall include any sales, use or other taxes that may be applicable to the Services provided herein. Payment of fees is due as follows:

March 22, 2001	\$10,000
April 22, 2001	\$10,000
May 22, 2001	\$10,000
June 22, 2001	\$10,000
July 22, 2001	\$ 8,000
August 22, 2001	\$ 8,000
September 22, 2001	\$ 8,000
October 22, 2001	\$ 8,000
November 22, 2001	\$ 8,000
December 22, 2001	\$ 8,000
January 22, 2002	\$ 8,000

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B. Expenses. The CITY shall reimburse DINI for actual and reasonable documented expenses incurred in performing the Services, including travel, telecommunications, printing, meeting expenses and supplies as approved by the CITY. DINI agrees to use "coach" fares when traveling by air and purchase tickets in advance when possible to receive the lowest fare possible. DINI shall not receive reimbursement from the CITY for any unused ticket except where scheduled travel is canceled by the CITY.

C. Statements. DINI shall submit to the CITY monthly statements for all fees and expenses incurred each month. Fees and approved expenses shall be payable within thirty (30) days after receipt by the CITY. Statements that are more than forty-five (45) days past due will be considered delinquent and a monthly surcharge of one and one-half percent (1.5%) of the outstanding balance will be added to the next month's billing.

3. Progress Reports. DINI will make progress reports, on a monthly basis, to Jan Schaefer or her designee, summarizing the services performed and action taken since the last progress report that is of interest to the CITY in a format suitable for reproduction and CITY distribution.

4. Nature of the Relationship. The intent and purpose of the parties to this Agreement is for DINI to serve as an independent consultant for the CITY in connection with providing the Services. Nothing contained in this Agreement shall be deemed or construed to create a partnership or joint venture between the CITY and DINI, or to create a relationship of employer-employee between the CITY and DINI or any representative of DINI, or will otherwise create any liability for the CITY or DINI with respect to any indebtedness, liabilities, or obligations of the other or any third party.

5. Duration and Termination. This Agreement shall be for a term of eleven (11) months commencing March 22, 2001 and continuing through February 22, 2002. Either party may terminate this Agreement at any time by notice in writing sent to the other party at least thirty (30) days prior to the date fixed for termination. DINI, upon receipt of written notice of termination shall immediately terminate all services provided except for winding-up activities as agreed to between the parties. Payments for winding-up activities by DINI shall be pursuant to mutual agreement.

6. Conflict of Interest. During the term of this Agreement, DINI shall not knowingly accept or receive any compensation, fees, expenses, or other thing of monetary value for any person, agency, firm or enterprise doing business or negotiating with the CITY, without the express written consent of the CITY. To the best of DINI's knowledge, after thorough investigation, DINI does not and has not represented any person or entity with interests in conflict with those of the

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CITY. In the event of an unanticipated conflict of interest arises, DINI shall immediately so inform the CITY.

7. **Governing Law.** The validity, construction, enforcement and interpretation of the rights and duties of the parties to this Agreement shall be governed by and interpreted under the laws of the State of Arizona.

8. **Non-Competition.** The CITY agrees that, for up to a period of one (1) year following the termination of this Agreement, it will not engage in any contractual relationship, directly or indirectly, with any employee of DINI without the prior written consent of DINI. The CITY further agrees that the limitations set forth herein on its rights to employ or contract with current or former DINI employees are reasonable and necessary for the protection of DINI.

9. **Assignment.** Neither this Agreement, nor any obligation of DINI hereunder, shall be assigned in whole or in part by DINI without the prior written consent of the CITY.

10. **Severability.** If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws effective during the term hereof, such provision shall be fully severable; this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof; and, the remaining provisions hereof shall remain in full force and effect, and shall not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom. Furthermore, there shall be added automatically, as part of this Agreement, a provision as similar in terms to such provision as may be possible and be legal, valid and enforceable.

11. **Confidentiality.** The CITY and DINI agree that certain confidential information regarding the business of the CITY and the business of DINI, including information revealed during the performance of this Agreement is confidential in nature and both parties agree not to disclose or make use of the confidential information without the prior written consent of the other party to this Agreement except as provided by law. For purposes of this Agreement, "Confidential Information" includes information regarding the finances and operations of the CITY and reports and surveys prepared by DINI during the course of this Agreement.

12. **Ownership of Work Product.** DINI agrees that all documents and other work product generated on behalf of the CITY in connection with this Agreement (except for DINI's notes for internal use) are the property of the CITY. DINI agrees that all work product constitutes works "made for hire." In the event any such materials are not works "made for hire," DINI hereby assigns to the CITY all rights in such materials and copyrights therein.

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13. **Whole Agreement.** This Agreement represents the whole Agreement. There are no other promises, terms, conditions or obligations, and this Agreement shall supersede all previous communications, representations or agreements, either verbal or written.

14. **Changes.** Any changes to this Agreement shall be in writing signed by both parties.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written intending to be bound thereby.

CITY OF TEMPE

BY: _____

NAME: _____

TITLE: _____

THE DINI PARTNERS, INC.

BY:  _____

NAME: David B. Jones

TITLE: Principal and Partner

DBJ/mc/03/14/01